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### REMARKS

This amendment is submitted with a request for two months extension and a Request for Continued Examination in reply to the outstanding final Office Action dated January 13, 2006 and the Advisory Action of May 8, 2006. Claims 1-4, 7-13, 16-19 and 21-26 currently stand rejected. Claims 1, 15, 18 and 24 have been amended to further patentably distinguish the claimed invention from the cited references. Applicant has added new claims 28-31 to more particularly define aspects of the present invention. Support for such new claims can be found at least at page 8, line 30 to page 9, line 7 of the specification as filed. No new matter has been added by the amendment. Claim 12 has been canceled, without prejudice, and claim 13 has consequently been amended to change its dependency to depend from claim 1.

Applicant respectfully notes that the final Office Action included a rejection of independent claim 1 under 35 U.S.C. §112, second paragraph, as being indefinite. Applicant addressed the rejection in reply to the final Office Action dated January 13, 2006, and since the Advisory Action did not address this rejection, Applicant assumes that the rejection has been overcome. In any case, Applicant submits that the current amendment clarifies independent claim 1 along the lines described in the reply to the final Office Action which was filed on April 13, 2006 and thus, the rejection is not further addressed herein.

In light of the amendment and the remarks presented below, Applicant respectfully requests reconsideration and allowance of all now-pending claims of the present application.

#### Claim Rejections - 35 USC §102

Claims 1, 2, 7-10, 15-19 and 21-23 stand rejected under 35 U.S.C. §102(e) as being anticipated by Gupta et al. (U.S. Patent No. 6,484,156, hereinafter "Gupta").

Applicant has amended independent claims 1, 15 and 18 to recite, *inter alia*, determining whether a priority relative to each other item on the playlist is associated with the remote network node content and modifying the play list based on the determined priority. Such feature had previously been included in dependent claim 12 and is neither taught nor suggested by Gupta, and Gupta was not cited as teaching such feature in the rejection of claim 12. Thus, Gupta fails to teach or suggest determining whether a priority relative to each other item on the

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playlist is associated with the remote network node content and modifying the play list based on the determined priority as recited in independent claims 1, 15 and 18. Thus, independent claims 1, 15 and 18 are patentable over Gupta. Claims 2, 7-10, 16, 17, 19 and 21-23 depend either directly or indirectly from corresponding ones of independent claims 1, 15 and 18 and thus include all the recitations of their corresponding independent claims. Therefore, dependent claims 2, 7-10, 16, 17, 19 and 21-23 are patentable for at least those reasons given above for independent claims 1, 15 and 18.

Accordingly, it is respectfully submitted that the rejections of claims 1, 2, 7-10, 15-19 and 21-23 under 35 U.S.C. §102(e) are overcome.

### **Claim Rejections - 35 USC §103**

#### **Claims 2-4**

Claims 2-4 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Gupta in view of Bowman-Amuah (U.S. Patent No. 6,606,660).

As stated above, Gupta fails to teach or suggest determining whether a priority relative to each other item on the playlist is associated with the remote network node content and modifying the play list based on the determined priority as recited in independent claim 1.

Bowman-Amuah describes a stream-based communication system and method, where a message to be sent from a sending system in a shared format is first translated to a stream-based format and then sent to the receiving system. Bowman-Amuah also does not teach or suggest determining whether a priority relative to each other item on the playlist is associated with the remote network node content and modifying the play list based on the determined priority and is not cited as such.

Since neither Gupta nor Bowman-Amuah individually teach or suggest determining whether a priority relative to each other item on the playlist is associated with the remote network node content and modifying the play list based on the determined priority, the combination of the references likewise fails to teach or suggest this feature of independent claim 1. Thus, the cited references, taken either individually or in combination, do not render

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independent claim 1 obvious. Claims 2-4 depend either directly or indirectly from independent claim 1, and thus include all the recitations of independent claim 1. Thus, dependent claims 2-4 are patentable for at least the same reasons as given above for the independent claim 1.

Accordingly, it is respectfully submitted that the rejections of claims 2-4 are overcome.

#### Claims 11-13

Claims 11-13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Gupta in view of Pezzillo et al. (U.S. Patent No. 6,434,621, hereinafter "Pezzillo"). As stated above, claim 12 has been canceled, without prejudice, and thus the rejection of claim 12 is now moot.

As stated above, Gupta fails to teach or suggest determining whether a priority relative to each other item on the playlist is associated with the remote network node content and modifying the play list based on the determined priority as recited in independent claim 1.

Pezzillo describes a system for enabling Internet or intranet broadcasting that offers audio and webcast information. Pezzillo also does not teach or suggest determining whether a priority relative to each other item on the playlist is associated with the remote network node content and modifying the play list based on the determined priority. Applicant respectfully notes that although the final Office Action cited Pezzillo as disclosing the receiving of a priority for streaming remote network node content by virtue of Pezzillo's disclosure of live barriers at col. 3, lines 27-29, both the cited passage and indeed all of Pezzillo fails to meet the above recited feature.

In this regard, Pezzillo discloses utilizing live barriers to override a channel's program schedule to **force live events to broadcast at particular times** (col. 3, lines 27-29 and col. 5, lines 43-45). Thus, Pezzillo merely discloses an option to fix the time at which an event is broadcast and not an assignment of priority. Accordingly, no priority is determined in association with remote network node content and the playlist of Pezzillo cannot be modified based on a priority determination. Furthermore, even assuming the forcing of a live event to be broadcast at a particular time is read to be a priority with respect to the item that would otherwise be broadcast at the particular time, Pezzillo still fails to teach or suggest that the priority is relative to each other item on the playlist. Rather, the live barrier is only applicable at the

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particular time. Thus, Pezzillo also fails to teach or suggest determining whether a priority relative to each other item on the playlist is associated with the remote network node content and modifying the play list based on the determined priority as claimed independent claim 1.

Since neither Gupta nor Pezzillo individually teach or suggest determining whether a priority relative to each other item on the playlist is associated with the remote network node content and modifying the play list based on the determined priority, the combination of the references likewise fails to teach or suggest this feature of independent claim 1. Thus, the cited references, taken either individually or in combination, do not render independent claim 1 obvious. Claims 11 and 13 depend either directly or indirectly from independent claim 1, and thus include all the recitations of independent claim 1. Thus, dependent claims 11 and 13 are patentable for at least the same reasons as given above for independent claim 1.

Accordingly, it is respectfully submitted that the rejections of claims 11 and 13 are overcome.

#### Claims 24-26

Claims 24-26 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Pezzillo. Applicant respectfully traverses.

Independent claim 24 recites, *inter alia*, determining whether a priority relative to each other item on the playlist is associated with the remote network node content and modifying the play list based on the determined priority. As stated above, Pezzillo fails to teach or suggest determining whether a priority is associated with the remote network node content and modifying the play list based on the determined priority as recited in independent claim 24.

Since Pezzillo fails to teach or suggest determining whether a priority relative to each other item on the playlist is associated with the remote network node content and modifying the play list based on the determined priority, Pezzillo does not render independent claim 24 obvious. Claims 25 and 26 depend either directly or indirectly from independent claim 24, and thus include all the recitations of independent claim 24. Thus, dependent claims 25 and 26 are patentable for at least the same reasons as given above for the independent claim 24.

Accordingly, it is respectfully submitted that the rejections of claims 24-26 are overcome.

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**Newly Added Claims**

Applicant has added new claims 28-31 to more particularly define aspects of the present invention. The new claims include no new matter and are fully supported by the specification and the drawings of the present application.

Accordingly, it is believed that the new claims are in condition for allowance.

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### CONCLUSION

In view of the amended claims and the remarks presented above, Applicant submits that the present set of claims is in condition for immediate allowance. As such, the issuance of a Notice of Allowance is respectfully requested. In order to expedite the examination of the present application, the Examiner is encouraged to contact Applicant's undersigned attorney in order to resolve any remaining issues.

In the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 07-2347.

Respectfully submitted,

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Joel Wall  
Registration No. 25,648


**Customer No. 32127**  
**VERIZON CORPORATE SERVICES GROUP, INC.**  
HQE03H14  
600 Hidden Ridge Drive  
Irving, TX 75038  
Telephone: (972) 718-4800  
Facsimile: (972) 718-3946

### CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is, on the date shown below, being transmitted by facsimile to the United States Patent Office at 571-273-8300.

Dated: June 13, 2006

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(Christian R. Andersen)